1	Courtland L. Reichman (California Bar No. 268873)	Adam R. Alper (SBN 196834) adam.alper@kirkland.com			
2	Jennifer P. Estremera	555 California Street			
3	(California Bar No. 251076) MCKOOL SMITH PC	KIRKLAND & ELLIS LLP San Francisco, California 94104			
3	255 Shoreline Drive, Suite 510	Telephone: (415) 439-1400			
4	Redwood Shores, California 94065	Facsimile: (415) 439-1500			
5	Telephone: (650) 394-1400 Facsimile: (650) 394-1422	Michael W. De Vries (SBN 211001)			
	creichman@mckoolsmith.com	michael.devries@kirkland.com			
6	jestremera@mckoolsmith.com	KIRKLAND & ELLIS LLP 333 South Hope Street			
7	John B. Campbell (Admitted Pro Hac Vice)	Los Angeles, California 90071			
0	Kathy H. Li (Admitted <i>Pro Hac Vice</i>)	Telephone: (213) 680-8400			
8	MCKOOL SMITH PC 300 W. 6th Street, Suite 1700	Facsimile: (213) 680-8500			
9	Austin, Texas 78701	Lien Dang (SBN 254221)			
10	Telephone: (512) 692-8700 Facsimile: (512) 692-8744	lien.dang@kirkland.com KIRKLAND & ELLIS LLP			
10	jcampbell@mckoolsmith.com	3330 Hillview Avenue			
11	kli@mkoolsmith.com	Palo Alto, California 94304			
1.0	C D1 : .: CC	Telephone: (650) 859-7000			
12	Attorneys for Plaintiff Immersion Corporation	Facsimile: (650) 859-7500			
13	mineration corporation				
1.4		Attorneys for Defendant			
14		Fitbit, Inc.			
15	UNITED STATES DISTRICT COURT				
16	NORTHERN DISTRICT OF CALIFORNIA				
17	SAN JOSE DIVISION				
18	IMMERSION CORPORATION,) CASE NO. 5:17-cv-03886-LHK			
19)			
20	Plaintiff,)			
20	v.) JOINT NOTICE PURSUANT TO THE			
21	FITBIT, INC.,	COURT'S FEBRUARY 23, 2018 ORDER			
22	riibii, inc.,) (DKT. NO. 58) DIRECTING PARTIES) TO PROVIDE ADDITIONAL			
	Defendant.) INFORMATION ON CLAIM			
23		ONSTRUCTION DISPUTE THAT COULD AFFECT THE PENDING			
24) MOTION TO DISMISS			
27) MOTION TO DISMISS			
25)) Judge: Honorable Lucy Koh			
)			

JOINT NOTICE Case No. 5:17-cv-03886

1

7

Patent

8,059,105

8,351,299

Claim Term or

Phrase

"one or more

configured to

a force signal

input signal is

event"

(Claim 19)

"a processing

device that receives

the sensor output

and accumulates

counts associated

processing device

with the sensor

output, the

receive an input

signal and generate

based on the input

signal, wherein the

associated with a

user-independent

processors

8 9

10

11 12

13 14

16

15

17 18

19 20

21

22 23 24

26

25

27 28

Pursuant to the Court's February 23, 2018 Order Directing the Parties to Provide Additional Information on Claim Construction Dispute that Could Affect the Pending Motion to Dismiss (Dkt. No. 58), Defendant Fitbit, Inc. ("Fitbit") and Plaintiff Immersion Corporation ("Immersion") (collectively, "the Parties") hereby identify the following two terms that the Parties agree should be construed as means-plus-function terms under 35 U.S.C. § 112(f), along with the Parties' respective proposed constructions (including disputes related to corresponding structure):

> Plaintiff's Proposed **Defendant's Proposed** Construction Construction Function: receive an input Function: receive an input signal and generate a force signal and generate a force signal based on the input signal based on the input signal, wherein the input signal, wherein the input signal is associated with a signal is associated with a user-independent event user-independent event

Structure: A microprocessor or **Structure**: The corresponding structure for "one or more other electronic controller, or equivalents thereof, that processors" is a performs the algorithm of microprocessor or other receiving an input signal electronic controller, or equivalents thereof. It is associated with a user-Fitbit's position that the independent event, and generating one or more specification fails to disclose a electronic signals that define sufficiently-specific algorithm the form of a haptic effect for carrying out the function based on the user-independent on the microprocessor or other event applied to a touch electronic controller, such that the claim term is indefinite. device.

Function: receives the sensor Function: receives the sensor output and accumulates counts output and accumulates counts associated with the sensor associated with the sensor output, and provides an output output, and provides an output to the vibrotactile device once to the vibrotactile device once a threshold associated with the a threshold associated with the accumulated counts is reached accumulated counts is reached

JOINT NOTICE 1 Case No. 5:17-cv-03886

Fitbit's position is that the Parties' claim construction disputes, either those described here and in Immersion's notice (Dkt. No. 56) or more generally in the Parties' claim-construction exchanges, do not affect the Court's § 101 analysis.

1	providing output to t		Structure: Processing device 22 and equivalents thereof,	Structure: The corresponding structure for "a processing
2	vibrotactil	e device	that performs the algorithm in	device" is Processing device
3	once a threassociated	with the	Figure 3 and generates one or more electronic signals that	22 and equivalents thereof. It is Fitbit's position that the
4	accumulat counts is r		define the form of a haptic effect.	specification fails to disclose a sufficiently-specific algorithm
5	(Claim 14))		for carrying out the function on the Processing device 22 or
6				equivalents thereof, such that the claim term is indefinite.
7				the claim term is macrimite.
8				
9				
10	DATED E 1 22 2010 D (CH 1 1/4 1			
11	DATED: February 23	, 2018	Respectfully submitted,	
12	KIRKLAND & ELLIS LLP			
13	/s/ Adam R. Alper Adam R. Alper (SBN 196834)			
14			KIRKLAND & 555 California S	treet
15			Telephone: (415	California 94104) 439-1400
16			Facsimile: (415) adam.alper@kir	439-1500 kland.com
17			Attorneys for De	fendant Fitbit, Inc.
18				
19				
20	DATED: February 23, 2018		Respectfully submitted,	
21			MCKOOL SMITH, P.C.	
22			/s/ Courtland L Reichman	
23				
24				
25				
26				
27				

JOINT NOTICE 2 Case No. 5:17-cv-03886

28

1 2 3 4 5 6	Courtland L. Reichman (California Bar No. 268873) MCKOOL SMITH PC 255 Shoreline Drive, Suite 510 Redwood Shores, California 94065 Telephone: (650) 394-1400 Facsimile: (650) 394-1422 creichman@mckoolsmith.com Attorneys for Plaintiff Immersion Corporation					
7	<u>ATTESTATION</u>					
8						
9	Pursuant to Civil Local Rule 5-1(i)(3) regarding signatures, I attest that concurrence in the					
10	filing of this document has been obtained from the other signatories.					
11	DATED: February 23, 2018 /s/ Adam R. Alper Adam R. Alper					
12	Adam K. Alpei					
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						

JOINT NOTICE 3 Case No. 5:17-cv-03886